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DECISION



Not Opened
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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D. C. 20548

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FILE: B-193940

DATE: January 30, 1979

MATTER OF: G. W. Galloway Company

CN600072

DIGEST:

1. [Secretary of Labor's wage rate determinations *Not Reviewable*] issued under Service Contract Act of 1965 are not subject to question by General Accounting Office.
2. Allegation that wage rates contained in solicitation issued in late 1978 violate wage-price guidelines is without merit where guidelines are effective with respect to Government contracts awarded under solicitations issued after February 15, 1979.

G. W. Galloway Company (Galloway) protests the refusal by the General Services Administration (GSA) to delete from solicitation No. GSD-9DPR-90012, for the repair and overhaul of heavy equipment, the minimum wage rates determined by the Department of Labor (DOL) under the Service Contract Act of 1965, as amended, 41 U.S.C. § 351 et seq. (1976). Galloway alleges that the specified wage rates effectively preclude it from competing under the procurement since "it does not currently pay these high rates." Galloway further argues that the imposition of Service Contract Act minimum wage rates is contrary to public policy because of their inflationary impact and because they allegedly violate wage-price guidelines.

The Service Contract Act provides in pertinent part:

"Every contract * * * entered into by the United States * * * in excess of \$2,500 * * * the principal purpose of which is to furnish services in the United States through the use of service employees * * * shall contain the following:

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"(1) A provision specifying the minimum monetary wages to be paid the * * * employee * * * as determined by the Secretary * * * in accordance with prevailing rates for such employees in the locality, or, where a collective-bargaining agreement covers any such service employees, in accordance with * * * such agreement, including prospective wage increases provided for in such agreement as a result of arm's length negotiations. * * *"
(Emphasis added.)


Galloway does not contest the applicability of the Act to the contract in question per se, but complains simply that the DOL wage rate determination "conflict[s] with Federal law and policy because it unnecessarily limits competition and results in higher costs to the U. S. Government." The limitation on competition and the increase in costs result from Galloway's asserted unwillingness to pay the required wages because of the potential damage to its "competitive position" and the alleged negative effect on the "wage price" guidelines these wages might have.

The issuance of a wage rate determination constitutes a finding by the Secretary of Labor or his designee that the rates specified therein are the rates prevailing in the locality in question; ~~and~~ the fact that a particular contractor may pay higher or lower wages than those stipulated in a wage rate determination made pursuant to statute does not affect either the validity of the rates established by the Secretary or the contractor's legal duty to comply with those wage rates in the performance of the contract. Moreover, the Act does not provide for a review of wage rate determinations by the General Accounting Office, and in the absence of such a statutory provision, the Secretary's wage rate determinations are not subject to question by this Office. 48 Comp. Gen. 22 (1968).

The wage-price guidelines referred to apparently are those promulgated by the President on October 24, 1978. Those wage and price standards, as they will

apply to the award of Federal contracts, are intended to deny contracts of \$5 million or more to firms which are found not to be in compliance with those standards under solicitations issued after February 15, 1979. See 44 Fed. Reg. 1229, January 4, 1979. Thus, this procurement is not affected by the guidelines as the solicitation was issued prior to February 15, 1979 and from the facts presented, it appears the contract would not be of the \$5 million magnitude.

The protest is summarily denied.) Braswell Ship-
yards, Inc., B-191451, March 24, 1978, 78-1 CPD 233.


Deputy Comptroller General
of the United States